

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

GUADALUPE VILLA-RODRIGUEZ,

Petitioner,

v.

**CASE NO. 2:12-CV-261
CRIM. NO. 2:10-CR-225(4)
JUDGE MARBLEY
MAGISTRATE JUDGE KING**

UNITED STATES OF AMERICA,

Respondent.

OPINION AND ORDER

On May 14, 2013, the Magistrate Judge recommended that the Court hold an evidentiary hearing on Petitioner's claim that he was denied the effective assistance of counsel because his attorney failed to file an appeal after being requested to do so and failed to consult with Petitioner regarding the filing of an appeal. *Report and Recommendation*, Doc. No. 185. The Magistrate Judge further recommended that the remainder of Petitioner's claims be dismissed. *Id.* Petitioner has filed objections to that recommendation. *Objection*, Doc. No. 189.

Petitioner specifically, objects to the recommendation that certain claims be dismissed. He contends that the Court should conduct an evidentiary hearing on all his claims.

Pursuant to 28 U.S.C. § 636(b), this Court has conducted a *de novo* review. For the reasons detailed in the Magistrate Judge's *Report and Recommendation*, Petitioner's *Objection*, Doc. No. 189, is **OVERRULED**. The *Report and Recommendation* Doc. No. 185, is **ADOPTED** and **AFFIRMED**. Counsel shall be appointed to represent Petitioner at an evidentiary hearing before the Magistrate Judge on Petitioner's claim that he was denied the effective assistance of counsel because his attorney failed to file an appeal after being requested

to do so and failed to consult with Petitioner regarding the filing of an appeal. The remainder of Petitioner's claims are hereby **DISMISSED**.

IT IS SO ORDERED.

DATED: June 19, 2013

s/Algenon L. Marbley
ALGENON L. MARBLEY
United States District Judge